

Amendment and Response - Under 37 C.F.R. §1.116 - Expedited Examining Procedure Page 6 of 9
Serial No.: 09/865,612
Confirmation No.: 4697
Filed: May 25, 2001
For: METHODS, COMPLEXES, AND SYSTEMS FOR FORMING METAL-CONTAINING FILMS ON
SEMICONDUCTOR STRUCTURES

Remarks

The Office Action mailed August 20, 2003 has been received and reviewed. Claims 20, 32, and 38 having been amended, the pending claims are claims 18-38.

Claim 20 has been amended to depend from claim 38, and claim 32 has been amended to depend from claim 20. Claim 38 has been amended to correct a typographical error.

Reconsideration and withdrawal of the rejections are respectfully requested in view of the remarks presented herein.

Rejection under 35 U.S.C. §102

The Examiner rejected claims 18-38 under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,328,804 (Murzin et al.). Applicants respectfully traverse the rejection.

"[F]or anticipation under 35 U.S.C. 102, the reference must teach *every aspect* of the claimed invention either explicitly or impliedly." M.P.E.P. §706.02 (emphasis added). Independent claims 18, 19, 33, and 38 each recite, among other things, a chemical vapor deposition system including a vessel containing *a precursor including one or more complexes of the formula: $[(R^1)NC(R^2)C(R^3)N(R^4)]_xML_y$* .

Murzin et al. disclose a "method and system for chemical vapor deposition" (Abstract). However, Murzin et al. lack, among other things, a chemical vapor deposition system that includes a vessel containing *a precursor including one or more complexes of the formula: $[(R^1)NC(R^2)C(R^3)N(R^4)]_xML_y$* . Thus, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of anticipation of claims 18-38 under 35 U.S.C. §102(a).

However, the Examiner maintained the rejection stated in the Office Action mailed December 3, 2002 (at page 2), in which the Examiner asserted that the "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims," citing as support *In re Young*, 75 F.2d 996, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963). Applicant respectfully traverses the

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Examiner's assertion for the reasons recited in the Response submitted by Applicant's Representatives on February 28, 2003.

However, in rebuttal, the Examiner referred to M.P.E.P. §2215 (page 2 of the Office Action mailed August 20, 2003), which states:

In In re Young, a claim to a machine for making concrete beams included a limitation to the concrete reinforced members **made by the machine** as well as the structural elements of the machine itself. The court held that the **inclusion of the article formed** within the body of the claim did not, without more, make the claim patentable (emphasis added).

Applicant respectfully submits that the present claims can be distinguished from the facts presented in *In re Young* for at least the reasons presented herein below.

First, in *In re Young*, the claim at issue (i.e., claim 6) recited "a machine for making concrete beams" and further recited the "concrete reinforced . . . members" made by the machine.

In contrast, the presently claimed chemical vapor deposition systems are useful for forming a metal-containing film on a substrate (e.g., claim 20). Thus, a metal-containing film on a substrate is the material "made by" the present system. However, Applicant is not including "a metal-containing film on a substrate" in the body of the claim. Thus, Applicant respectfully submits that the present claims do not recite the material "made by" or "worked upon" by the claimed system.

Moreover, M.P.E.P. §2115 notes that "this line of cases [e.g., *In re Young*] is limited to claims directed to **machinery** which works upon an article or material in its intended use. It does not apply to product claims or kit claims (i.e., claims directed to a plurality of articles grouped together as a kit)" (emphasis added).

Applicants respectfully submit that they are not claiming merely a **machine**, but a chemical vapor deposition **system** that is capable of forming a metal-containing film on a substrate, wherein the system includes, among other things, a deposition chamber and a vessel

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containing the recited precursor. Thus, the vessel containing the recited precursor is an element of the claimed system. Indeed, the system as claimed could not function to deposit a metal-containing film on the substrate without a precursor.

Thus, Applicants respectfully request that patentable weight be given to the recitation of "*a precursor including one or more complexes of the formula:*

$[(R^1)NC(R^2)C(R^3)N(R^4)]_xML_y$," and that the rejection under 35 U.S.C. §102(e) be reconsidered and withdrawn.

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For: **METHODS, COMPLEXES, AND SYSTEMS FOR FORMING METAL-CONTAINING FILMS ON SEMICONDUCTOR STRUCTURES****Summary**

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicant's Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
Brian A. Vaartstra

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Commissioner for Patents, Mail Stop AF, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20 day of October, 2003, at 3:05 pm (Central Time).

By: Name: SARA E. OLSON